Chapter 7
Investment Climate Statement (2005)

Cambodia is a developing country with a market economy. It began the shift from a command economy to the free market in the late 1980s. Since the re-establishment of a constitutional monarch in 1993, the economy has grown relatively rapidly, except for a period between mid-1997 and late 1998 when Cambodia suffered political instability and the Asian financial crisis affected business activity. The economy began to rebound in late 1998 with the establishment of a new coalition government. Real GDP averaged 5.3 percent in the 1999-2003 period. In 2004, economic growth was down to 4.5 percent, and for 2005 is forecasted to fall to 1.9 percent mainly due to the uncertain future of the garment sector. Foreign direct investment in most sectors has lagged, and Cambodia remains dependent on foreign donor assistance for budget assistance, fixed asset investment and social services.

Since early 1999, the Cambodian government has intensified its economic reform program, a process the international financial institutions and donors participate in and monitor closely. The government has over the past year publicly committed itself on numerous occasions to fighting corruption, restoring good governance, increasing transparency and predictability as laid out in its latest public reform effort called the Rectangular Strategy for Growth, Employment, Equity, and Efficiency.

The government has set out some specific measures with a view to promoting business, especially small and medium businesses, in Cambodia by reducing costs and the time cost of business registration by establishing a number of committees for trade facilitation and promotion of business.

A. Openness to Foreign Investment

Cambodia’s 1994 law on investment established an open and liberal foreign investment regime. The Council for the Development of Cambodia (CDC), Cambodia's foreign investment approval body, administers a package of investment incentives, discussed in detail in below. All sectors of the economy are open to foreign investment. There are no performance requirements and no sectors in which foreign investors are denied national treatment.

An August 1999 sub-decree created some restrictions on foreign investment: publishing, printing, and broadcasting activities are limited to 49% foreign equity, and there must be an unspecified amount of local equity in gemstone exploitation, brick making, rice mills, wood and stone carving manufacture, and silk weaving.

The government recently issued a sub-decree restricting foreign ownership of hospitals and clinics and forbidding the employment of non-Cambodian doctors in any speciality in which the Ministry of Health considers there to be an adequate number of Cambodian practitioners. While other sectors are eligible for 100% foreign investment, investment incentives vary according to the nature of the investment project.

B. Major Taxation Issues

Seeking to increase government revenue, the international financial institutions recommended that the Cambodian government scale back its investment incentives. The government amended the Law on Investment in February 2003.

The amendments to the law eliminated the special 9 percent corporate tax rate for all new investments and began the phasing out the standard 20 percent under the Taxation Law for the next 5 years after the effective date of the law for existing, approved and operational projects. After this 5-year period, such investment will also be subject to the standard 20 percent rate. The amendments brought to an end the tax-free reinvestment of profits and the rights to tax-free repatriation of earnings and other incomes by approved enterprises.

While some incentives are eliminated, the law provides a simplified and transparent mechanism for investment approval and thereby shortens the approval process for new investments.

Article 44 of the constitution provides that only Khmer legal entities and citizens of Khmer nationality have the right to own land. Aside from this, there is little or no discrimination against foreign investors either at the time of initial investment or after investment. Some foreign businesses have reported, however, that they are at a disadvantage vis-à-vis Cambodian or other foreign rivals, who engage in acts of corruption or tax evasion, or take advantage of Cambodia's poorly enforced legal regulations.

The privatization of state enterprises has not always been carried out in a transparent manner. In several instances, the public learned that enterprises were for sale only after the government announced a sale to a particular buyer.

Investor rights (investment guarantees) provided for in the Law on Investment include:

--Foreign investors shall not be treated in a discriminatory manner by reason of investor being a foreign investor, except in respect to land ownership as provided for in the Constitution of the Kingdom of Cambodia.

--The Royal Government of Cambodia shall not undertake a nationalization policy that adversely affects the private property of investors.

--The Royal Government of Cambodia shall not fix the price of products or fees for services.

--The Royal Government of Cambodia, in accordance with relevant laws and regulations, shall permit investors to purchase foreign currencies through the banking system and to remit abroad those currencies as payments for imports, repayments on loans, payments of royalties and management fees, profit remittances and repatriation of capital.

C. Conversion and Transfer Policies

There are no restrictions on the conversion of capital for investors, as noted above. The Foreign Exchange Law does allow the National Bank of Cambodia (the central bank) to implement exchange controls in the event of a crisis; the law does not define what would constitute a crisis. The U.S. Embassy is not aware of any cases in which investors have encountered obstacles in converting local to foreign currency or in sending capital out of the country.

D. Expropriation and Compensation

Article 44 of the Cambodian constitution, which restricts land ownership to Cambodian nationals, also states that “the (state’s) right to confiscate properties from any person shall be exercised only in the public interest as provided for under the law and shall require fair and just compensation in advance.” Article 58 states that “the control and use of state properties shall be determined by law.” Under the existing land law, all land is considered state property. The Law on Investment provides that “the Royal Government of Cambodia shall not undertake a nationalization policy which adversely affects the private property of investors.”

A Cambodian government sub-decree abrogated certificates for possession and use of land and rights to immovable property in the newly created Koh Kong Industrial Zone. The document, which declares that the land is State property, makes no mention of compensation. There are currently no known investment disputes involving expropriation of property belonging to U.S. citizens. There are indications that the government was considering a program to compensate businesses for damages sustained from gunfire and looting troops during the 1997 factional fighting, but no plan ever came to realization.

Up to 17 Thai businesses sustained varying degrees of damage during anti-Thai rioting in Phnom Penh on January 29, 2003. The Cambodian government has pledged to compensate unconditionally all the damages. Some compensation has been paid to the Thai government and Thai businesses but the two countries to continue to work on the final details of a payment package.

E. Dispute Settlement

Cambodia's legal system is a mosaic of pre-1975 statutes modelled on French law, communist-era legislation dating from 1979-1991, statutes put in place by the UN Transitional Authority in Cambodia (UNTAC) during the period 1991-93, and legislation passed by the Royal Government of Cambodia since 1993. The legal system contains many gaps in key areas such as company law, bankruptcy and commercial arbitration.

The Cambodian legal system has also traditionally favoured mediation over adversarial conflict and adjudication. Thus, compromise solutions are the norm, even in cases where the law clearly favours one party in a dispute. The government is currently working on draft legislation to create a Commercial Court that might include an arbitration or mediation component.

Cambodia's court system is generally seen as non-transparent and subject to outside influence. Judges, who have been trained either for a short period in Cambodia or under other systems of law, have little access to published Cambodian statutes. Judges can be inexperienced and courts are often understaffed with little experience in adjudicating commercial disputes. The local and foreign business community reports frequent problems with inconsistent judicial rulings as well as outright corruption. Cambodian judges are paid minimal salaries.

Cambodia has no commercial arbitration code. However, in 2001, Cambodia passed a law implementing the New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards, which Cambodia signed in 1960. Regardless of the legal basis for implementing arbitration awards, foreign or domestic, the ability of Cambodian courts to enforce decrees can be quite limited.

To handle specific disputes with regard to labor, the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (now Ministry of Labor and Vocational Training) established a Labor Arbitration Council in May 2003. Basing its decision on the provisions of the Labor Law, the Council has 21 arbitrators. The Council is an independent body whose function is to resolve collective labor disputes that the Ministry is unable to solve by conciliation. The Council's decisions are non-binding but are largely respected. In just one year's time, the Council has been able to reduce the number of industrial actions in the garment sector by more than 40 percent.

F. Performance Requirements and Incentives

Under the amended Law on Investment, the profit tax exemption is allocated automatically, on the basis of activity and minimum investment amounts as set out in the sub-decree. To maintain the incentives under the law, qualified investment projects (QIP) are required to obtain an annual Certificate of Compliance from the CDC and file this with the annual tax return.

Investment incentives are administered by the Council for the Development of Cambodia (CDC), which as created as a one-stop shop to facilitate foreign direct investment.

The amended Law on Investment includes the following provisions, which include the exemption, in whole or in part, of customs duties and taxes, for QIPs:

--An exemption from the tax on profit imposed under the Law on Taxation for a set period. The tax exemption period is composed of a trigger period + 3 years + n year (n be determined). The minimum allowable trigger period is to be first year of profit or 3 years after the QIP earns its first revenue, whichever is sooner.

--100% exemption from import duties for construction material, production equipment and production input materials for export QIPs and supporting industry QIPs in accordance with the provisions of sub-decree.

--Transfer of incentives by merger or acquisition.

--Guarantee against nationalization.

--Renewable land leases of up to 99 years on concession land for agricultural purposes and land ownership permitted to join ventures with over 50% equity owned by Cambodians.

--No Price Control.

--No discrimination between foreign and local investors.

--100 percent exemption from export tax or duty, except for activities specifically mentioned in the Law in Customs.

--Employment of foreign expatriates where no qualified Cambodians are available. QIPs are entitled to obtain visas and work permits.

--A QIP which is located in a designated special economic zone (SEZ) is entitled to the same incentives and privileges as other QIPs as stipulated in the law.

The list of sectors to which investment incentives apply could be changed when a sub-decree is replaced or amended.

The current list of incentive sectors, without regard to the amount of investment capital includes: crop production, livestock production, fisheries, manufacture of transportation equipment, highway and street construction, exploitation of minerals, ore, coal, oil, and natural gas, production of consumption goods, hotel construction (three stars or higher), medical and education facilities meeting international standards, vocational training centers, physical infrastructure to support the tourism and cultural sectors, and production and exploitation activities to protect the environment.

Investment incentives are available for manufacturing projects in the following sectors when investment capital exceeds $500,000: rubber and miscellaneous plastics, leather and other products, electrical and electronic equipment, and manufacturing and processing of food and related products. A minimum investment of $1,000,000 applies when seeking incentives in the following sectors: apparel and other textiles, furniture and fixtures, chemicals and allied products, textile mills, paper and allied products, fabricated metal products, and production of machinery and industrial equipment.

The following sectors are not eligible for investment incentives, although investment is permitted: all types of trading activities, all forms of transportation services, duty-free shops, restaurants, karaoke and night clubs (now banned), business centers, press related activities and media networks, retail and wholesale operations, and professional services. According to Cambodia's 1995 law on The Establishment of the Bar, foreign business firms which wish to offer legal services in Cambodia must affiliate with a Cambodian attorney.

Investors who wish to take advantage of investment incentives must submit an application to the Cambodian Investment Board (CIB), the division of the CDC charged with reviewing investment applications. Investors not wishing to apply for investment incentives may establish their investment simply by registering corporate documents with the Ministry of Commerce.

Once an investor's application is submitted, the CDC will issue to the applicant either a Conditional Registration Certificate or a Letter of Non-Compliance within 3 working days. The Conditional Registration Certificate will set out the terms such as authorization, clearances, permits or registrations required. These relevant government agencies must issue the required documents no later than 28 working days from the date of the Conditional Registration Certificate. At the end of the 28 days, the CDC will issue a Final Registration Certificate.

Once the CDC approves the project in principle, the investor must pay a second application fee, depositing a performance guarantee of between 1.5 and 2 percent of the total investment capital at the National Bank of Cambodia, and register the corporate entity at the Ministry of Commerce. Once these steps have been taken, the investor will receive a formal investment license from the CDC requiring the investment to proceed within six months. Once the project is 30 percent complete, the investor is eligible for a refund of the performance guarantee.

G. Right to Private Ownership and Establishment

There are no limits on the rights of foreign and domestic entities to establish and own business enterprises or to compete with public enterprises. However, the constitution provides that only Khmer citizens or legal entities have the right to own land. A legal entity is considered to be a Cambodian when at least 51% of its shares are owned by Cambodian citizen(s) or by Cambodian legal entities. As noted above, there are several investment sectors in which certain levels of local equity are required. Investment incentives vary depending on the nature of the investment project.

Foreign investors may secure control over land through a long-term lease (at least 15 years), made possible by the new 2001 Land Law. If investors intend to take a long-term lease interest in land or ownership interest through a 51% Cambodian company, it is essential that caution be exercised to ensure that clear and unencumbered ownership of the land owned is verified.

The new Land Law establishes a comprehensive legal framework for long-term leasing. The leaseholder has a contractual interest in the land, which means the lease can be sold or transferred though succession and can be pledged as security in order to raise financing. It is important to make sure that the land ownership is clearly and legally established before any leasing agreement is entered into.

H. Protection of Property Rights

Cambodia has adopted legislation concerning the protection of property rights including the Land Law and the Copyrights and Patent and Industrial Design Law. Cambodia is a member of the World Intellectual Property Organization (WIPO) and the Paris Convention for the Protection of Industrial Property.

Chattel and real property: A revised Land Law, passed in 2001, provides a framework for real property security and a system for recording titles and ownership. In practice, the titling system is not fully functional in Cambodia, and the majority of property owners lack documentation proving ownership. Even where title records exist, recognition of legal title to land has been a problem in some court cases where judges have sought additional proof of ownership. Although foreigners are constitutionally forbidden to own land, the new law allows them a long-term lease (15 or more years). Foreigners may also convey buildings and improvements on the land that they lease. Title or ownership of land dating from before 1979 is not recognized.

Intellectual property rights (IPR): Cambodia is a member of WTO and its IPR laws and regulations are in compliance with its WTO commitments. Comprehensive enforcement is another issue. The 1996 U.S. - Cambodia Trade Agreement contained a broad range of IPR protections, but given Cambodia’s very limited experience with

IPR, the agreement granted phase-in periods for the Cambodian government to fully implement these provisions

Trademarks: The Cambodian National Assembly passed a trademark law that complies with Cambodia's WTO obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Signed in February 2002, the law outlines specific penalties for trademark violations, including jail sentences and fines for counterfeiting registered marks. It also contains detailed procedures for registering trademarks, invalidation and removal, licensing of marks, and infringement and remedies.

Before a trademark law was in force in Cambodia, owners of trademarks were unable to seek relief from infringement in court. The relatively few complaints received were directed to the Ministry of Commerce, which has responsibility for registering trademarks but does not have clear legal authority to conduct enforcement activities. Still, the Ministry took effective action against trademark infringement in several cases since 1998. The ministry has ordered local firms to stop using well-known U.S. marks, including Pizza Hut, Nike, Scotties, Marlboro, and Pringles. Since 1991, the Ministry of Commerce has maintained an effective trademark registration system, registering more than 10,000 trademarks (over 2,900 for U.S. companies) under the terms of a 1991 sub-decree, and has proven cooperative in preventing unauthorized individuals from registering U.S. trademarks in Cambodia.

Copyrights: Responsibility for copyrights is split between the Ministry of Culture, which handles phonograms, CDs, and other recordings, and the Ministry of Information, which deals with printed materials. The Ministry of Culture prepared a draft copyright law in 1998 with the help of WIPO and IFPI and it was enacted in January 2003. The Ministry has also sought comments on the law from the U.S. Asia-Pacific Motion Picture Association. Before the adoption of the law, there had been no enforcement of copyright provisions

Although Cambodia is not a major center for the production and export of pirated CDs, videos, and other copyrighted materials, these products are widely available in Cambodian markets. Pirated computer programs, VCDs, and music CDs are widely used throughout the country

Patents and industrial designs: Cambodia has a very small industrial base, and infringement on patents and industrial designs is not yet commercially significant. With assistance from WIPO, the Ministry of Industry, Mines and Energy (MIME) prepared a draft of a comprehensive law on the protection of patents and industrial designs in April 1999. It was adopted and in force as of January 2003. The law provides for the filing, registration, and protection of patents, utility model certificate and industrial design. The MIME has also issued a sub-decree on granting patents and registering industrial designs.

Encrypted satellite signals, semiconductor layout designs, and trade secrets: Cambodia has not yet made significant progress toward enacting required legislation in these areas, although it obtained a model law on encrypted satellite signals and semiconductor layout designs from WIPO in March 1999.

IPR enforcement: With the exception of the trademark enforcement actions described above, the Cambodian government has taken few significant actions to enforce its IPR obligations. Infringements on IPR are pervasive ranging from software, compact disk, music to photocopied books and the sale of counterfeit products including drugs.

I. Transparency of the Regulatory System

There is no pattern of discrimination against foreign investors in Cambodia through the regulatory regime. Numerous issues of transparency in the regulatory regime arise, however, from the lack of legislation and the weakness of key institutions. Investors often complain that the decisions of Cambodian regulatory agencies are inconsistent, irrational, or corrupt.

The Cambodian government is still in the process of drafting laws and regulations that establish the framework for the market economy. A Company Law and commercial arbitration law have yet to be approved by the National Assembly. Other important business-related laws such as bankruptcy, arbitration, e-commerce and personal property leasing laws are in draft only.

Cambodia currently has no anti-monopoly or anti-trust statutes. Cambodia allows monopolies on certain products. On a practical level, Cambodia has recently shown some intention to discourage monopolistic trading arrangements by relaxing some licensing and inspection requirements. It is unclear how effective these measures will be.

As previously mentioned, the tax system has been amended. The amendments brought substantial changes to the taxation regime applicable to business operating in Cambodia. The tax system currently includes a profit tax (20%), excluding certain natural-resource development projects and including all QIPs registered with the CDC, a withholding tax (usually 20%), a salary or personal income tax (5-20%), a value added tax (10%), and specific excise taxes on certain merchandise (rates vary). There is a minimum turnover tax (1%); some foreign inputs are exempt from this levy, but have to pay a 1% advanced profits tax instead. There are also import and export duties (rates vary). The U.S. and Cambodia have not signed a Double Taxation Treaty.

The Cambodian Constitution and the 1997 Labor Code provide for compliance with internationally recognized core labor standards, and allows the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation to set health, safety and other conditions for the workplace. (Section D of this report discusses the labor situation in more detail.)

The National Assembly passed a law and associated decree regulating pharmaceuticals in June 1996, giving administrative authority to the Ministry of Health. In May 2000, the National Assembly passed a law on quality of goods and services, comprising food safety, consumer protection and product liability. Food and product safety issues fall under the jurisdiction of the Cambodian standards authority, Camcontrol, which is under the Ministry of Commerce.

Camcontrol, the government's standards-setting arm, does not currently have a mechanism for industry participation in standards setting. There are currently no industry standards-setting organizations operating in Cambodia. Cambodia is a member of the Codex Alimentarius Commission created by FAO and WHO in 1963 to develop food standards, guidelines and related texts such as codes of practice under the Joint

FAO/WHO Food Standards Program. The Ministry of Commerce is a focal point for Codex and created a National Codex Committee.

Cambodia's banks and financial institutions fall under the supervision of the National Bank of Cambodia (NBC). In November 1999, Cambodia passed a new law on banking and financial institutions. In July 2000, Cambodia enacted an insurance law that gives the Ministry of Economy and Finance regulatory authority over the insurance industry. The insurance market in Cambodia is relatively new. Currently there are a few major insurance companies operating here such as Asia Insurance, the state-owned insurance company Caminco and Forte Insurance.

The government has introduced specific measures to facilitate business, in particular exports, by attempting to reduce informal costs and the streamline bureaucratic hurdles. Measures include: (1) introduction of a joint inspection by CamControl and the Customs and Excise Department and issuing only one common inspection report valid for both agencies; (2) based on this common report, Ministry of Mine and Energy and Ministry of Commerce will issue the Certificate of Processing (CP) and the Certificate of Origin (CO) respectively; and, (3) reduction of the costs of registration from $615 to $177 and of the time limit for Cambodian government issuance of registration from 30 days to 10 and a half working days.

J. Capital Markets and Portfolio Investment

Cambodia currently has no capital markets. There is no stock or bond market, and no means by which to purchase equity in a company except by agreement with the existing owners. Most companies are privately held.

The Cambodian government does not use regulation of capital markets to restrict foreign investment. Domestic financing is difficult to obtain at competitive interest rates. There is currently no law addressing secured transactions or a system for registering such secured interests. The secured transaction law is currently in draft form pending approval from the National Assembly. Most loans are secured by real property mortgages or deposits of cash or other liquid assets, as provided for in the existing contract law and land law.

Export/import financing is available from multinational banks through a variety of credit instruments. The U.S. Overseas Private Investment Corporation (OPIC), the International Finance Corporation (IFC), and the Multilateral Investment Guarantee Agency (MIGA) offer both investment guarantees and loans in Cambodia. Eximbank does not operate in Cambodia.

The total assets of Cambodia's banking system as of August 2004 were approximately 4,106 billion Riel ($1030 million). Loans account for only about one third of the banking system's assets, and it is impossible to estimate the percentage of loans, which are non-performing. As of August 2004, credit granted by the commercial banks amounted to 1,700 billion Riel ($425 million).

Under the amended Law on Banking and Financial Institutions, all of Cambodia's commercial banks had to reapply for licenses from the NBC, and meet new, stricter capital and prudential requirements. As a result, there was a significant amount of shakeout and consolidation within the banking sector. All banks were required to meet new capitalization requirements by the end of 2001. As a result, the number of commercial banks was reduced from 31 to 14 by December 2003.

K. Political Violence

Until the end of 1998, there was a diminishing but real threat of sporadic violence from remnant Khmer Rouge units. There were large-scale defections of the Khmer Rouge in late 1998, and the Cambodian government arrested Ta Mok, the last remaining Khmer Rouge leader, in early 1999. The UN and the Cambodian government have signed an agreement to hold an international tribunal to try surviving Khmer Rouge leaders but as yet no formal timeframe for trials has been set.

L. Corruption

Local and foreign business people have identified corruption, particularly within the judiciary, as the single biggest deterrent to investment in Cambodia. Public sector salaries range from $15-30 per month for working level officials, and less than $300 per month for high-ranking officials. Although there has been a recent salary increase of 15%, these wages are far below the level required to survive in Cambodia, and as a result, public employees are susceptible to corruption and conflicts of interest. Local and foreign businesses report that they must often pay extra facilitation fees to expedite any business transaction. International and domestic businesses list corruption as the number one problem they face in operating in Cambodia. Additionally, for those seeking to enter the Cambodian market, the process for awarding government contracts is not transparent and subject to major irregularities.

Current Cambodian laws and regulations and their application do not seem sufficient to address the problem of corruption. Laws dating from the UNTAC period (1991-93) against embezzlement, extortion, and bribing public officials exist, but have never been enforced. After a draft national anti-corruption law failed to win National Assembly approval in 1999, the Cambodian government undertook to revise the draft with cooperation from local and international NGOs, the World Bank, and bilateral donors. The draft applies only to acts of corruption within Cambodia, and includes provisions to establish an anti-corruption commission, declaration of assets and criminal penalties for payment or acceptance of bribes to or by public officials. Cambodia is not a signatory to the OECD Anti-Bribery Convention or any regional anti-corruption initiative. Cambodia is under increasing pressure from donors to address the issue of good governance in general, and corruption in particular.

In a draft action plan on good governance, which the government presented to donors in May 2000, Cambodia indicated its intent to pass anti-corruption legislation by late 2001 and by July 2003. However to date, no new legislation has been adopted.

The Ministry of Parliamentary Relations and Inspections has an anti-corruption mandate, but is largely inactive. The government also created an anti-corruption commission within the cabinet in late 1999, which has undertaken a few investigations, one of which resulted in the dismissal of a mid-level official in late 2001. Also in 2001, the government established a National Audit Authority.

Fighting corruption is one of the most important components of Cambodia's Governance Action Plan (GAP). In its latest reform strategy, the Rectangular Strategy, the

Cambodian government has once again renewed its commitment to fight corruption and make good governance the centrepiece of reform. It recognizes the importance of taking action against corruption, but the challenge remains a daunting and long-term one.

M. Bilateral Investment and Agreements

Cambodia has signed bilateral investment agreements with Croatia, Cuba, Malaysia, Indonesia, Thailand, France, Switzerland, South Korea, Germany, Singapore, the People's Republic of China, the Netherlands, the Philippines, Vietnam, and the Organization of the Petroleum Exporting Countries (OPEC). The agreements provide reciprocal national treatment to investors, excluding benefits deriving from membership in future customs unions or free trade areas and agreements relating to taxation. The agreements preclude expropriations except those, which are undertaken for a lawful or public purpose, non-discriminatory, accompanied by prompt, adequate and effective compensation at the fair market value of the property prior to expropriation. They also guarantee repatriation of investments and provide for settlement of investment disputes via arbitration.

N. OPIC and Other Investment Insurance Programs

Under the Quick Cover Program, the Overseas Private Investment Corporation (OPIC) currently offers financing and political risk insurance coverage for projects on an expedited basis. Cambodia is eligible for this program, although no U.S. investor has taken advantage of it. With most investment contracts written in U.S. dollars, there is little exchange risk. Even for Riel-denominated transactions, there is only one exchange rate, which is fairly stable.

--Point of contact: Overseas Private Investment Corporation; contact person: Mr. Bruce Cameron, Business development officer; address: 1100 New York Avenue NW, Washington, DC 20527, USA; phone: 202-336-8745; fax: 202-408-5145; email: bcame@opic.gov. Website: http://www.opic.gov/

Cambodia is a member of the Multilateral Investment Guarantee Agency of the World Bank, which offers political-risk insurance to foreign investors.

--Point of contact: Multilateral Investment Guarantee Agency (MIGA), 1818 H St. NW, Washington, DC 20433, USA, Tel: (001) 202-477-1234; fax: (001) 202-522-2630. Website: http://www.miga.org/

O. Labor

Cambodia has an estimated population of 13 million (2004 estimate), with a labor participation rate of 72 percent. The country has a labor force population (defined as being 10 years old and older) of some 6.3 million people in 2001, an increase from 5.4 million in 2000. The labor force grows at a rate of 3.4 percent annually; with over 250,000 people entering the work force every year.

Of the labor force, approximately 70 percent are engaged in subsistence agriculture. About 265,000 people are employed in the garment sector.

The economy is not able to generate enough jobs in the formal sector to handle the large number of entrants to the job market. This dilemma is likely to become more pronounced over the next decade. Cambodia suffers from a large demographic imbalance. Most estimates based on the 1998 census place fully 60 percent of the population at 20 years of age or younger. As a result, over the next decade several hundred thousand new job seekers are poised to enter the labor market each year.

Given the severe disruption to the Cambodian education system and loss of skilled Cambodians during the 1975-79 Khmer Rouge period, workers with higher education or specialised skills are few and in high demand. According to the survey in 1999, one in five persons had a secondary or higher education. An estimated 17,750 persons in the country had technical or vocational qualifications. There are also some 10,000 graduates and post-graduates in the labor force.

Although overall literacy is 72 percent, the adult literacy rate is about 35 percent, with literacy rates lower for women than for men. Many adults and children enroll in supplementary educational programs, including English and computer training. Employers report that Cambodian workers are eager to learn and, when trained, are excellent, hardworking employees.

Cambodia's 1997 labor code protects the right of association, the rights to organize and bargain collectively. The code prohibits forced or compulsory labor, establishes 15 as the minimum allowable age for a salary position, and 18 as the minimum age for anyone engaged in work, which may be hazardous, unhealthy or unsafe. The statute also guarantees an 8-hour workday and 48-hour work week, provides for time-and-a-half overtime pay, with double overtime for night work or work on the employee's day off. The law gives the Ministry of Labor and Vocational Training (MOLVT) a legal mandate to set minimum wages after consultation with the tripartite Labor Advisory Committee. MOLVT set the minimum wage for the garment and footwear industries at $45 per month in August 2000. There is no minimum wage for any other industry.

Cambodia does not currently have legislation governing worker health and safety, but there are various detailed ministerial regulations regarding payments in the event of on-the-job accidents. In labor disputes in which workers complain of poor or unhealthy conditions, MOLVT and the Ministry of Commerce have ordered the employer to take corrective measures.

Enforcement of many aspects of the labor code is poor, and the majority of labor disputes involve workers simply demanding conditions to which they are legally entitled. The U.S. Government, the ILO, and others are working closely with Cambodia to improve enforcement of the labor code, and workers' rights in general. The U.S.-Cambodia Bilateral Textile Agreement links Cambodian compliance with internationally recognized core labor standards with the level of textile quota the U.S. grants to Cambodia.

Cambodia has maintained reasonably low inflation and stable if not exactly spectacular economic growth during the past few years, which has kept inflation-driven wage increases in check.

P. Foreign Trade Zones and Free Ports

As a part of country's development, the Cambodian government has shown great interest in increasing exports via geographically defined special economic zones (SEZ), with the goal obviously being to attract much-needed foreign direct investment.

Cambodia plans to establish three SEZs, one is to be located at Koh Kong in the southwest, another at Poipet in the northwest and a third at the deepwater port at Sihanoukville.

The law on investment provides for incentives to encourage investments in SEZs. However, the legislation defining SEZs and establishing the rules under which they will operate is still in draft form.

Q. Foreign Investment Statistics

Total foreign direct investment (FDI) flows into Cambodia for the years 1995-2004 are presented in the table below.

Total annual FDI flows into Cambodia, in US$ millions. (source: MEF)

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
151	240	168	121	129	136	95	139	77	83

Figures from the CDC for registered capital of approved projects as of December 13, 2004, including domestic investment, and broken down by country of origin and economic sector, are provided below. These figures probably overstate actual investment, since figures are included for some projects that have not yet been, or may never be, fully implemented; retention of dormant or defunct projects from earlier years makes the investment figures higher.

Total cumulative registered investment projects approved, by country of origin, August 1994 to December 13, 2004. (Source: CDC)

Country	US$ millions	pct.
Malaysia	1,539.4	38.4
Cambodia	952.5	23.7
Taiwan	354	8.8
P.R.China	222	5.5
Singapore	171	4.2
Thailand	136.1	3.3
U.K.	123	3.1
Hong Kong	114	2.8
R.O.Korea	102.1	2.5
Canada	55.7	1.3
Indonesia	54	1.3
USA	45	1.1
Australia	41.6	1.0
France	36.3	0.9

Japan	10.7	0.2
Other	44	1.0
Total	4,002.3	100%

Total cumulative registered investment capital by sector, from August 1994 to December 13, 2004 (source: CDC).

Sector	US$ millions	No. of Projects
Industry	1,650	750
-- Food Processing	129.6	47
-- Garments	444	477
-- Petroleum	64	14
-- Wood Processing	254.3	40
-- Footwear	39	25
Agriculture	182	90
Services	340	92
-- Construction	124	16
-- Telecommunications	121	14
Tourism	1,826	79
Total	3,998	1011

New investment projects in US$ millions, by country of origin, 1995-04 (source: CDC).

Country	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Malaysia	1,351	55	52.9	22.6	17	1.6	28	na	3.6	5.8
Cambodia	341	131	72.6	110.3	97.6	28	47	20.6	44.2	15.3
USA	5.5	6.4	13.8	2.3	4.4	3.7	5.2	na	na	2.1
Taiwan	11.9	125	47.6	78.9	29.4	16	35.6	5	1	4.6
Singapore	41	32	12.5	12.3	2.3	3.1	na	10	3.3	1.6
P.R.China	4.5	23	21.8	74.8	36.4	3.9	4.2	7.8	14.1	21.8
R.O.Korea	0.7	5	69.5	3.8	0	10	2	7.6	1	3.1
Hong Kong	5.4	10	17.8	47.9	22.4	4	0.7	1	1	na
France	18.8	10	1.1	0.6	0.6	3	na	na	1.7	0.6
Thailand	22	10	7.4	53	15.9	17	3.1	na	3.1	2
U.K.	4.9	50	7.1	0.4	1.5	6.5	1.5	0.4	0.5	1.5
Canada	39.2	7.6	1.8	2.1	0.2	1	na	2.2	na	1.7
Indonesia	1.6	2.5	2.2	9.6	0.4	3	na	na	na	na
Australia	1.3	4.2	32.9	1.4	0.02	0.8	na	na	0.6	na
Japan	0.8	3	0.3	2	2	0.2	na	1.2	na	0.7

Other	4.1	9.1	7.3	8.3	2.8	1.3	1.7	13.6	na	na
Total	1,894	483.4	367.6	430.6	233	102.9	129	69	74.3	61

New investment projects in US$ millions, by sector, 1995 – 12/13/2004 (source: CDC).

Sector	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Industry	285	315	276.4	297.7	101	48	61	22.5	41	48.5
- Food Processing	44	5	6.6	8	2.4	27.4	1.5	….	1.6	1
- Garments	16	40	101.6	91.6	49.5	28.4	17	12.6	19	37
- Petroleum	24	31	4.7	1	1	…	…	…	….	1
- Wood Processing	8	137	13.3	91.5	…	…	1	1	1.3	1
Agriculture	13	56	15	44	31.3	8.5	1	6.2	2	2
Services	111	53	57	22.1	55	10	5.2	18	5.5	5
- Construction	80	22	1	1.2	16.4	…	…	…	….	3
- Telecom	4	13	55	13.4	22	…	…	2.9	10	---
Tourism	1,485	59	21	67	45.5	36.5	61.4	22.2	26	5.5
Total	1,894	483	369.6	430.6	233	103	129	69	74	61

The CDC has registered approximately $45 million in U.S. investment since August 1994. Some American investors include Beacon Hill Associates with a proposed 60-megawatt independent power production project in Phnom Penh. This project has been the subject of a dispute between the government and Beacon Hill and will likely never be implemented. Caltex has a chain of service stations and a petroleum holding facility in Sihanoukville. Northbridge runs an international school and housing compound. There are U.S. investors in a number of Cambodia's garment factories

In March 2002, CheveronTexaco was awarded rights to a portion of Cambodian territorial waters in the Gulf of Thailand for the exploration and production of oil and gas. ChevronTexaco has been proceeding with exploratory drilling and in January 2005 announced that it had found, as yet unspecified, gas reserves. CheveronTexaco also has exploration rights of Blocks 7, 8 and 9, which lie in the overlapping claims area of the Gulf of Thailand disputed by Cambodia and Thailand.

Major non-U.S. foreign investors include Asia Pacific Breweries (Singapore), Raffles International (Singapore), Shell (France), Total (France), Samart Mobil Phone (Thailand, Malaysia), Shinawatra Mobile Phone (Thailand), Thakral Cambodia Industries (Singapore), Petronas Cambodia (Malaysia), Chamroeun Pokphand (Thailand), and YTL (Malaysia).

Some major local companies and their sectors are: Sokimex (petroleum, tourism), Royal Group of Companies (Mobile Phone, Telecommunication), AZ Distribution

(Construction), Mong Reththy Groups (Construction, rubber and oil palm plantation), KT Pacific Group, Hero King (Cigarettes), and Canadia Bank (Banking and real estate).

Statistics on Cambodian investment overseas are not available but such investments are likely minimal.